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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/898,255      | 07/03/2001  | Kevin Thomas         | 88265-4040          | 1910             |

28765 7590 08/20/2003

WINSTON & STRAWN  
PATENT DEPARTMENT  
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EXAMINER

ST CYR, DANIEL

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2876

DATE MAILED: 08/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/898,255

Applicant(s)

THOMAS ET AL.

Examiner

Daniel St.Cyr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6 and 8-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 8-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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### SUPPLEMENTAL DETAILED ACTION

1. This action supersedes the action mailed 7/10/03.

#### *Claim Objections*

2. Claims 21-29 are objected to because of the following informalities: the claims are either directly or indirectly dependent from claim, they should as follows: the method of claim 1/21/25/26/ or /28. For instance, claim 21 should begin as: The method according to claim 1. . . . Appropriate correction is required.

#### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 6, 8, 9, 11-13, 21, 22, and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Wright, US Patent No. 5,285,041.

Re claims 1, 12, 13, and 30, Wright disclose an automated food vending machine comprising: a receptacle having at least one wall member that defines an enclosure, a food-forming product forming a package 40 present within the enclosure, and a tag (code) associated with the food-forming product, wherein the tag includes machine-readable information regarding the product which information is programmed at the manufacturing plant and includes instructions for controlling at least one of preparation of a food (see figure 1, col. 5, line 64 to col. 6, line 23, and col. 7, line 65 to col. 8, line 38).

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Re claim 2, wherein the tag is affixed to an exterior surface of the package (see col. 6, line 13).

Re claim 6, wherein the tag includes a date of expiration in electronic form for the product (see col. 8, line 9).

Re claims 8 and 9, wherein the food provides single/multiple-serving portions (frozen fried food could either be a single or multiple servings).

Re claim 11, wherein the food-forming product is a powder, concentrate, or ready to eat (see col. 8, lines 1-7).

Re claim 21, the limitation has been met above.

Re claim 22, wherein the package is composed of non-conductive material and the tag is located within the enclosure (of the machine) (see col. 8, line 42).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 24, 31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright in view of Masataka, JP Patent No. 411230554. The teachings Wright have been discussed above.

Wright fails to disclose that the tag is an RFID tag.

Masataka a cooking method using electronic oven wherein RFID tags are attached to

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products associated with the system, the tags contain cooking procedure program (see the abstract).

In view of Masataka's teachings, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify the vending system of Wright to employ RFID tags to store the products information. Such modification would enhance and facilitate communication between a reader and the tags and would provide greater storage to store more information so as to effectively identify the products. Therefore, it would have been an obvious extension as taught by Wright.

7. Claims 4, 10, 14-17, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright. The teachings of Wright have been discussed above.

Re claims 4, 10 and 23, Wright fails to disclose or fairly suggest that tag is affixed to an interior surface of the package, the expiration date is from the date when the package is opened, or the package is composed of conductive material.

However, such limitation falls within the engineering design choice.

It would have been obvious for an artisan at the time the invention was made to conceal the tag inside the package to protect the tag from accidental liquid spillage, to set the expiration date when the package is opened or when the food was made according to the food product, and compose the package with conductive material for enhancing communication between the reader and the tag. Therefore, it would have been an obvious extension as taught by Wright.

Re claim 14-17, Wright fails to disclose or fairly suggests generating an error code to disable the dispenser and notifies an operator.

However, since the tag is read to obtain information from a data source, if the information in the tag cannot be verified or unreadable, a signal would be communicate to the operator in order to take the appropriate action. Regarding disabling the dispenser, the information is needed to operate the dispenser, therefore, the dispenser is disable until the information is obtained.

It would have been obvious for an artisan at the time the invention was made to generate an error code when the tag information cannot be verified or the tag is unreadable to notify the user for appropriate actions to process the food vending machine. Such modification would make the system more effective by providing means to rectify operation when problems occur. Therefore, it would have been an obvious extension as taught by Ishikawa et al.

8. Claims 18-20 and 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright in view of Buckley et al, US Patent No. 5,285,041. The teachings of Wright have been discussed above.

Wright fails to disclose or fairly suggests that vending machine is connected to an external unit wherein the database is updated to schedule re-supplying of the vending machine.

Buckley et al disclose a computer controlled system for vending personalized products comprising a remote location 154 connected to the vending machine 10 wherein information is updated and communicated to the remote location scheduling re-supplying.

In view of Buckley et al's teachings, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify the system Wright to include a central location wherein information is communicated and updated to provide scheduled re-supply of products. Such modification would enhance the system performance by constantly

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making the products available to customers, which would make the vending machine more effective. Therefore, it would have been obvious.

*Conclusion*

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 703-305-2656. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7721 for regular communications and 703-308-7724 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Daniel St.Cyr  
Primary Examiner  
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A handwritten signature in black ink, appearing to read 'Daniel St.Cyr', is written over a large, loopy oval shape. A long horizontal line extends to the right from the end of the signature.

DS  
August 5, 2003